

7 FAM 850 MISCELLANEOUS NOTARIAL SERVICES

(TL:CON-6; 6-30-84)

7 FAM 851 PATENTS AND PATENT APPLICATIONS

7 FAM 851.1 Patent Law Information

The patent laws appear in Title 35 of the U.S. Code. For the Rules of Practice in Patent Cases, see Chapter 1, Title 37, Code of Federal Regulations. The laws and the rules are also published separately by the Patent and Trademark Office. Any overseas post that receives frequent inquiries about patent procedures should request copies of the Patent and Trademark Office publications as well as the pamphlet "General Information Concerning Patents," July 1980, from the Department (CA/OCS/CCS).

7 FAM 851.2 Patent Application Affidavit

a. The form of the affidavit is specifically described in the patent application. As part of an application for a patent, the applicant must submit either an oath or declaration of character as prescribed by 37 CFR 1.65. b. A declaration is merely signed by the applicant, without any notarization. However, it must include this statement:

I hereby declare that all statements made herein of my own knowledge are true; and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

7 FAM 851.3 Ribbon and Seal Procedure

a. In executing the jurat, the officer should carefully observe the following directions on ribboning and sealing:

When the oath is taken before an officer in a country foreign to the United States, any accompanying application papers, except the drawings, must be attached together with the oath and a ribbon passed one or more times through all sheets of the application, except the drawings and the ends of said ribbon brought together under the seal before the latter is affixed and impressed, or each sheet must be impressed with the official seal of the officer before whom the oath is taken. If the papers as filed are not properly ribboned or each sheet impressed with the seal, the case will be accepted for examination, but before it is allowed, duplicate papers, prepared in compliance with the foregoing sentence, must be filed. (37 CFR 1.66)

b. Ribboning is not required when a declaration is made by an applicant who resides in a foreign country. Alternatively, an applicant may submit an oath or affirmation. When an applicant for a patent resides in a foreign country, this applicant's oath or affirmation may be made before any other person authorized to administer oaths having an official seal whose authority shall be authenticated by the consular officer.

7 FAM 851.4 Patent Application Authentication Certificate

When the affidavit required for a patent application has been sworn to or affirmed before a local foreign official other than a consular officer, a consular officer must authenticate the authority of the official administering the oath or affirmation. The consular officer should use the appropriate certificate (see sample in 7 FAM 851 Exhibit 851.4). All papers that will become part of a patent application filed in the U.S. Patent Office must be legibly written or printed in permanent ink (37 CFR 1.52). Consular certificates should be prepared on a typewriter.

7 FAM 851.5 Patent Application by Legal Representatives

Legal representatives of inventors who are deceased or under legal incapacity may apply for patents by complying with the requirements on the same terms and conditions applicable to the inventor (35 U.S.C. 117). The Patent Office requires proof of the legal representative's power or authority. Such proof should be authenticated by the consular officer. An application for a patent, or any interest therein, may be assigned in law by an instrument in writing. In a foreign country, any such assignment, grant, or conveyance of any patent application or any patent may be acknowledged before a consular officer or an official whose authority is authenticated by a consular officer (35 U.S.C. 261).

7 FAM 852 TRADEMARK REGISTRATIONS

As in the case of patents, a person who applies for registration of a trademark may submit an unsworn declaration in lieu of an oath (37 CFR 2.20). The same "penalty" statement is required (see section 7 FAM 851.2). Alternatively, an applicant may submit an oath before a consular officer or an official whose authority is by a consular officer (15 U.S.C. 1061). For patent applications procedures, see section 7 FAM 851 .

7 FAM 853 ASSIGNMENT OF COPYRIGHTS

It is not essential to the validity of a transfer of copyright ownership to have it notarized or otherwise accompanied by a certificate of acknowledgment. However, issuance of a certificate of acknowledgment by a consular officer is considered prima facie evidence of the execution of the transfer.

7 FAM 854 U.S. SECURITIES

7 FAM 854.1 Assignments Involving Securities

Assignments or requests for payment of securities, or for securities for which the Department of the Treasury acts as transfer agent, or for powers of attorney in connection with that transfer, authorized by the Department of the Treasury should be executed before a consular officer. However, if they are executed before a foreign official who has the power to administer oaths, the Department of the Treasury requires that the official character and jurisdiction of the foreign official be authenticated by the consular officer.

7 FAM 854.2 Issuance of Substitute Securities

a. In an emergency, persons abroad who hold certain U.S. securities may request that the securities be destroyed or bisected and returned to the United States to be followed by issuance of substitute securities in the United States. The procedure shall be used only in emergencies or for the transmission of bearer bonds or unregistered U.S. securities, because routine replacement of lost, stolen, defaced, destroyed, or mutilated registered bonds can be accomplished through use of ordinary registered mail. If the situation warrants emergency action, such action shall be taken, upon satisfactory proof of the facts, while the securities are in the technical custody of the consular officer, who must be convinced of the case before proceeding.

b. Action to reissue the securities will be taken by the Treasury Department upon recommendation of the Department of State. Payment on matured securities will be made only upon full compliance with any applicable Foreign Assets Control (22 CFR 500), Cuban Assets Control (22 CFR 515), or Foreign Control (22 CFR 306.45) regulations. These regulations are administered by the Treasury Department's Office of Foreign Assets Control and by the Bureau of the Public Debt, Division of Securities Operations.

7 FAM 854.3 Affidavit Procedure

The owner of securities shall prepare an affidavit in triplicate (the third copy to be retained by the post), setting forth:

a. The ownership of the securities, stating whether individually owned or as trustee of other representative. In the latter event only the affidavit should state the representative's official capacity and the names, residences, and citizenship of all persons having any interest in the securities.

b. A list of securities by title, loan, denomination, serial number, form of registration if registered, and the number and dates of coupons attached to any coupon bonds.

c. The date and source of acquisition by the present owner and, if acquired since the start of any hostilities, the date and source of acquisition of the prior owner.

d. A statement supported by a certification that all requirements of local law regarding registration and export of securities have been met, from the proper local governmental officer, in which consent is given to the proposed action.

e. A statement that the securities are surrendered to the overseas post for bisection or destruction without liability on the part of such officers and without assurance that any substitute securities will be issued. Reasons for requesting the action shall be set forth in this statement.

f. A request that new securities be issued by the Department of The Treasury and delivered to a designated address in the United States, but only in accordance with any applicable Foreign Assets Control, Cuban Assets Control, or Foreign Funds Control regulations (see section 7 FAM 854.2 b).

7 FAM 854.4 Bisection or Destruction Procedures

When the consular officer has decided that circumstances warrant bisection or destruction of the securities, the officer shall proceed with such action as follows:

a. Bisection shall be done vertically, and each half shall be forwarded separately to the Department under cover of a separate memorandum, subject: FEDERAL AGENCIES: TREASURY--Request for Issuance of Substitute Securities, Part I (or Part II on the second half), making reference to 7 FAM 854.4. Each shall be accompanied by a duplicate set of affidavits and certificates the destruction rather than the described above. The covering memorandum for each half shall be sent in separate pouches.

b. When in the opinion of the overseas post it is necessary for the protection of all parties to destroy the securities, an officer shall reduce them to ashes in the presence of the owner and shall so certify, giving the reason for the destruction rather than the bisection. The duplicate affidavits and certificates shall be sent to the Department under cover of two separately pouched memoranda, as in the case of bisection of the securities.

c. No fees should be charged for notarial services performed in connection order to protect the holder's right of recourse against the drawer and endorsers. Procedures in detail are set forth in the Uniform Commercial Code, which the Department of the Treasury acts as transfer agent or which may be required in the collection of interest thereon.

7 FAM 855 PROTESTING NONPAYMENT OF BILLS OF EXCHANGE

7 FAM 855.1 Dishonoring Foreign Bill of Exchange

When a foreign bill of exchange is dishonored by nonacceptance or nonpayment, the holder is expected to cause the instrument to be protested in order to protect the holder's right of recourse against the drawer and endorsers. Procedures in detail are set forth in the Uniform Commercial Code, Section 3-509 in the Martindale-Hubbel Law Dictionary, Vol. 8, 1982; Pt. 6, Uniform and Model Acts, p. 4403. The protest is in the form of a notary's certificate, or over the notary's seal, and is annexed by that notary to a dishonored bill of exchange. The certificate states the time and place of presentation by the notary of the bill of exchange for acceptance or payment, as well as the fact and circumstances of refusal, or acceptance, or payment, and protects against the drawer, endorsers, and others concerned for all cost, exchange, re-exchange, charges, damages, and interest suffered for want of acceptance or payment.

7 FAM 855.2 Noting (or Initial Protest)

Noting, or initial protest, consists of a memorandum made on a bill by a consular officer or notary public, with the initials of that officer or notary, the date of the noting, and a statement of the reason for dishonor, such as no account (see Uniform Commercial Code, Section 3-509, referenced in section 7 FAM 855.1). The noting which is done on the day of dishonor may be eliminated if the certificate of protest is executed promptly.

7 FAM 855.3 Notice of Protest

A notice of protest is the separate form of notice (written or oral, signed or unsigned, with or without seal, as the case may be) to which the drawer and all endorsers are each entitled, of the dishonor and protest of a bill of exchange. Its purpose is to notify all parties of their consequent liability.

7 FAM 855.4 Time and Mode of Presentation of Protest

The law of the place where notes are pr payment, manner of protest, and giving of notice. seldom required, provision for it is included in the Tariff of Fees. This section establishes procedures for the occasional case which may arise. The fee chargeable under item 55 of the Tariff of Fees is the same for each bill of exchange protested by a consular officer regardless of the number of parties to whom the notice of protest is sent at the request of the person who requires the service. In addition to the fixed fee, the consular officer local law by a notary public and it is unusual for the service to be called for as a consular act.

7 FAM 855.5 Notarial Protests

As U.S. consular officers have general notarial powers and duties, a request for presenting a bill of exchange and protest of its nonacceptance or non-payment should not be declined without good reason. While the service is selfom required, provision for it is included in the Tariff of Fees. This section establishes procedures for the occasional case which may arise. The fee chargeable under item 55 of the Tariff of Fees is the same for each bill of exchange protested by a consular officer regardless of the number of parties to whom the notice of protest is sent at the request of the person who requires the service. In addition to the fixed fee, the consular officer should charge, under item 85, for time spent outside the office in presenting a negotiable instrument for acceptance or payment. If, in exceptional cases, the person upon whom the instrument is drawn pays or accepts it upon presentation by the consular officer outside the consular office, the fee shown for item 85 will be the only amount the consular officer collects form the person who requires the service.

7 FAM 856 THROUGH 859 UNASSIGNED

7 FAM 851 Exhibit 851.4

(TL:CON-6; 6-30-84)

Sample of a Patent Application Authentication Certificate

PATENT APPLICATION AUTHENTICATION CERTIFICATE

VENUE.

<u>Spain</u>)	
(Country))	
)	
<u>Province of Madrid</u>)	
(State, province, etc.))	
)	
<u>Madrid</u>)	ss.
(City))	
)	
<u>Embassy of the United</u>)	
<u>States of America</u>)	
(Name of consular post))		

I certify that the following named official, whose true
signature and official seal are, respectively, subscribed and
affixed to the annexed document, was, on this day, empowered to
act in the official capacity designated in the annexed document
to which faith and credit are due.

Jose Maria Garcia del Santander
(Typed Name of Foreign Official)

/s/ Mary Richards
(Signature of Consular Officer)

Mary Richards
(Typed Name of Consular Officer)

Vice Consul of the United States of America
(Title of Consular Officer)

July 3, 1982
(Date)

(SEAL)